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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/756,837	01/13/2004	Paul H. Wierenga	AJGC121761	1417

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EXAMINER

NGUYEN, DINH Q

ART UNIT	PAPER NUMBER
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3752

DATE MAILED: 12/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

CS

Office Action Summary	Application No. 10/756,837	Applicant(s) WIERENGA ET AL.	
	Examiner Dinh Q. Nguyen	Art Unit 3752	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 30 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-54 is/are pending in the application.
 4a) Of the above claim(s) 26-39, 41-43 and 49-51 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18, 21-25, 40, 44-48 and 52-54 is/are rejected.
- 7) ☒ Claim(s) 19, 20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>5/04 & 10/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 26-39, 41-43, and 49-51 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on August 30, 2004.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 15 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant fails to properly disclose the distinction of the cover and the lid.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 2, 5, 7-9, 13, 16, 17, 23, 40, 52-54 are rejected under 35 U.S.C. 102(b) as being anticipated by Galbraith et al. (U.S. Patent No. 5,465,795).

Galbraith discloses a fire extinguisher comprising a tank 92 for a water based fire suppressant 94, a gas generator breech having a hermetically sealed gas generator 12 with a aluminum housing 36 and a propellant comprising a nitrogen containing fuel (column 4,

line 33) or a strontium nitrate (column 4, line 54), and a lid or a burst disk 40 with area of localized weakness.

6. Claims 1, 2, 16, 18, 52 are rejected under 35 U.S.C. 102(b) as being anticipated by Parkinson et al.

Parkinson discloses a fire extinguisher comprising a tank 112 for a fire suppressant 158, a gas generator breech 170 having a hermetically sealed gas generator 129 within the tank 112.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 3, 4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Galbraith et al. or Parkinson et al. in view of Stewart et al.

Galbraith or Parkinson teaches all the limitations of the claims except for a hydrofluorocarbon fire suppressant. However, Stewart et al. discloses a fire extinguisher with a hydrofluorocarbon fire-extinguishing composition (column 3, lines 54). Therefore, it would have been obvious to one having ordinary skill in the art to have provided the device of Galbraith or Parkinson with a hydrofluorocarbon fire suppressant as suggested by Stewart. Doing so would provide an effective way to fight fire.

With respect to claim 4, to have 1,1,1,2,3,3,3-heptafluoropropane, or water with potassium acetate and surfactant as a fire suppressant would have been an obvious matter

Art Unit: 3752

of design choice to a person of ordinary skill in the art, since Applicant has not disclosed that 1,1,1,2,3,3,3-heptafluoropropane, or water with potassium acetate and surfactant provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with either hydrofluorocarbon or 1,1,1,2,3,3,3-heptafluoropropane, or water with potassium acetate and surfactant because they both provide fire suppressant for fire fighting.

9. Claims 10-12, 14, 21, 22, 24, 25, 44, 45, 47, 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Galbraith et al. or Parkinson et al.

Galbraith or Parkinson discloses all the limitations of the claims except for gas generator container being made of steel, food can, or soda pop can. At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to provide the device of Galbraith or Parkinson with the gas generator housing being made of either steel, food can, or soda pop can, because Applicant has not disclosed that steel, food can, or soda pop can container provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with either type of container materials because the materials serve effectively as container for the gas generator. Therefore, it would have been an obvious matter of design choice to modify the device of Galbraith or Parkinson to obtain the invention as specified in claims 10-12, 24, 25, 44, 45, 47, and 48.

With respect to claims 21, it would have been an obvious matter of design choice to a person of ordinary skill in the art to provide the device of Galbraith or

Art Unit: 3752

Parkinson with the burst pressure for the gas generator in the range of 500-4000 psig, because Applicant has not disclosed that to have a bursting range of 500-4000 psig provides an advantage, is used for a particular purpose, or solves a stated problem.

With respect to claims 22, it would have been an obvious matter of design choice to a person of ordinary skill in the art to provide the device of Galbraith or Parkinson with the gas generator that does not have a burst shim or a release poppet, because Applicant has not disclosed that the gas generator without a burst shim or a release poppet provides an advantage, is used for a particular purpose, or solves a stated problem.

10. Claim 46 is rejected under 35 U.S.C. 103(a) as being unpatentable over Parkinson et al. in view of Galbraith et al.

Parkinson teaches all the limitations of the claims except for an aluminum gas generator cartridge. However, Galbraith discloses an aluminum gas generator cartridge 36. Therefore, it would have been obvious to one having ordinary skill in the art to have provided the device of Parkinson with an aluminum gas generator cartridge as suggested by Galbraith. Doing so would provide an effective fire extinguisher.

Allowable Subject Matter

11. Claims 19 and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

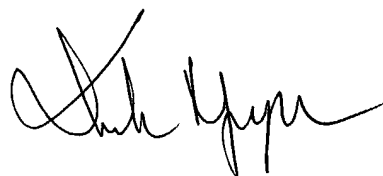
Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents are cited to show the art with respect to a fire extinguisher: Brobeil, and Mitchell et al.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dinh Q. Nguyen whose telephone number is 571-272-4907. The examiner can normally be reached on Monday-Thursday 6:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Scherbel can be reached on 571-272-4919. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Dinh Q Nguyen
Primary Examiner
Art Unit 3752